

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
<u>Van Eibergen Santhagens et al.</u>)	
)	
Serial No.: 10/588,433)	Group Art Unit: 3723
)	
Filed: August 4, 2006)	Examiner: Shantese L. McDonald
)	
For: SHAVING HEAD MEMBER)	
HAVING A BLADE SUPPORTING)	Board of Patent Appeals and
MEMBER WITH REDUCED)	Interferences
CROSS-SECTIONAL AREA)	
)	
)	
)	
Confirmation No.: 8808)	
)	
Mail Stop: Appeal Brief - Patents		
Commissioner for Patents		
P.O. Box 1450		
Alexandria, VA 22313-1450		

REPLY BRIEF UNDER 37 C.F.R. § 41.41

In response to the Examiner's Answer mailed on October 29, 2009 to the Appeal Brief filed on July 6, 2009, and pursuant to 37 C.F.R. § 41.41, Appellants present this Reply Brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-6 in the Final Office Action dated April 14, 2009. The appealed claims are set forth in the attached Claims Appendix.

1. Status of the Claims

Claims 1-6 have been rejected in the Final Office Action. The final rejection of claims 1-6 is being appealed.

2. Grounds of Rejection to be Reviewed on Appeal

- I. Whether claims 1,2,4, and 6 are unpatentable under 35 U.S.C. § 102(b) over International Publication No. WO 01/39937 to Santhagens van Eibergen et al. (hereinafter "Eibergen").
- II. Whether claims 3 and 5 are unpatentable under 35 U.S.C. § 103(a) over Eibergen in view of United States Patent No. 5,822,862 to Ferraro (hereinafter "Ferraro").

3. Argument

- I. The Rejection of Claims 1, 2, 4, and 6 Under 35 U.S.C. § 102(b) Over Eibergen Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1, 2, 4, and 6 under 35 U.S.C. § 102(b) as being unpatentable over Eibergen. (See 4/14/09 Office Action, p. 2-3).

In the Final Office Action, the Examiner asserts that Eibergen teaches a shaving device having a grip and a shaving head which is releasably mounted to the grip, (See Eibergen, p. 5, ll. 10-11), the shaving head comprising at least two blade shaped cutting members, each having a strait cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by means of a supporting member supporting the respective cutting member in a supported area on the respective cutting member, the supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with the supported area remote from the cutting edge and a second portion in contact with the supported area near the cutting edge (See 4/14/09 Office Action, p. 3, figure), the first portion having a basic cross sectional area, seen perpendicularly to the longitudinal direction, and the second portion having a reduced cross-sectional area characterized in that the second

portion of the supporting member of each cutting member extends over at least half of the predetermined distance. (See 4/14/09 Office Action, p. 3, figure).

In the Examiner's Answer, the Examiner modifies Eibergen's Fig. 2 yet again. (See 10/29/09 Examiner's Answer, p. 4, figure). In this modification, the Examiner has modified what is interpreted as the "predetermined distance" in order to try and meet the limitations of the claimed invention. However, in the 4/14/09 representation of Eibergen's Fig. 2, the Examiner labeled the "supporting area" and used that as the interpretation of the "predetermined distance". (See 4/14/09 Office Action, p. 3, figure).

The Examiner bases the rejection on Eibergen's Fig. 2. In order to compare Eibergen Fig. 2 with the modifications made by the Examiner in the 4/14/09 Office Action and the 10/29/09 Examiner's Answer, all three figures are reproduced below:

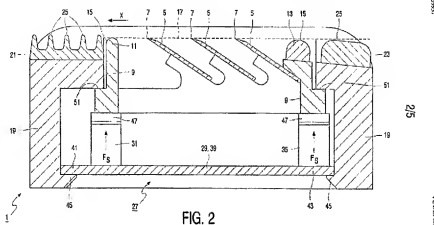


Figure 2 as it appears in Eibergen

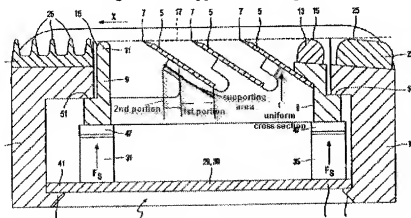


Figure 2 as modified by the Examiner in the 4/14/09 Office Action

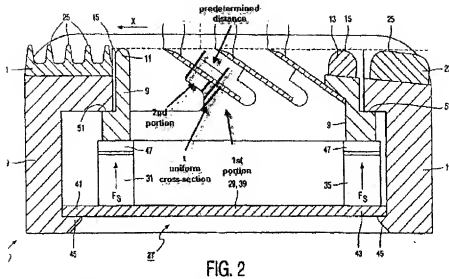


Figure 2 as modified again by the Examiner in the 10/29/09 Examiner's Answer

- B. The Cited Publication Does Not Disclose The Second Portion Of The Supporting Member Of At Least One Of The Cutting Members Extends Over At Least Half Of Said Predetermined Distance, As Recited In Claim 1.

Claim 1 recites, "a shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, *wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*" The Examiner asserts that the above recitation of claim 1 is taught in Eibergen. (See 4/14/09 Office Action p. 2-5). Appellants respectfully disagree.

The Examiner asserts that Eibergen discloses “wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.” (See 4/14/09 Office Action p. 4-5, and modified figure 2).

The Examiner has delineated an area of uniform cross sectional area and designated it as “t” in the supporting area of the rightmost blade. (See 4/14/09 Office Action p. 5, and modified figure). As recited in claim 1, “said first portion ha[s] a uniform cross-sectional area.” Thus, the area of uniform cross section referred to by the Examiner must be included in what the Examiner is defining as the first portion in order to meet the recitation of claim 1. Thus, in order to include this uniform cross sectional area in the first portion, the second portion must necessarily be even smaller than shown by the Examiner when defining the first and second portion. In modified figure 2 of the 4/14/09 Office Action, the Examiner has identified both the first portion and the second portion of the supporting member. The Examiner’s modified figure of the 4/14/09 Office Action shows that the length of the second portion is much smaller than the length of the first portion. It also shows that the length of the first portion takes up more than half of the supported area. (See 4/14/09 Office Action p. 3, modified figure 2). The Examiner then asserts that the length of the *second* portion extends over at least half of the supported area. (See 4/14/09 Office Action p. 5).

The Examiner, in modified figure 2 of the 4/14/09 Office Action, shows that the second portion *does not* extend over at least half of the supported area. In fact, this area is considerably smaller than that of the first portion, and appears to be about one-third of the supported area. The Examiner then asserts that this same picture shows that the second portion *does* extend over at least half of the supported area. This is simply not possible. The modified figure 2 of the 4/14/09 Office Action shows that the second portion, being smaller than the first portion, cannot extend over at least half of the predetermined length. The Examiner interpreted the supporting area, which is labeled in the modified figure 2 of the 4/14/09 Office Action, as the predetermined length. This interpretation of the predetermined length is merely the length over which the blade contacts the supporting member.

In the modified figure 2 of the 10/29/09 Examiner's Answer, the Examiner modifies the already modified figure 2 of the 4/14/09 Office Action by modifying the "predetermined distance." (See 10/29/09 Examiner's Answer, p. 4, figure). Appellants respectfully submit that there is no basis whatsoever for this modification of Eibergen's Fig. 2. As previously stated, in the 4/14/09 Office Action, the Examiner's interpretation of the predetermined length was merely the length over which the blade contacts the supporting member. However, in the 10/29/09 Examiner's answer, it seems the Examiner has just haphazardly segmented Fig. 2 to meet the claimed invention. Appellants respectfully submit that there is no basis for this interpretation of Fig. 2 and that there is no written description within Eibergen that supports the Examiner's contention.

Therefore, Eibergen does not disclose "the second portion of the supporting member of at least one of the cutting members extends over *at least half* of said predetermined distance" as recited in claim 1. Because claims 2, 4, and 6 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

II. The Rejection of Claims 3 and 5 Under 35 U.S.C. § 103(a)
Over Eibergen in view of Ferraro Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 3 and 5 under 35 U.S.C. § 103(a) as obvious under Eibergen in view of Ferraro. (See 4/14/09 Office Action, p. 3-4). The Examiner repeats this rejection in the Examiner's Answer. (See 10/29/09 Examiner's Answer p. 5).

Ferraro comprises a shaving system that has at least one, and preferably a plurality of, resilient supports, and a plurality of blades movably arranged in spaced relation and rigidly connected to the resilient supports. (See Ferraro, col. 1, ll. 46-50). The plurality of supports are spaced across the blades. (See Ferraro, fig. 1). A small portion of support 79 has a rounded shape, and is attached to the blade. (See Ferraro, fig. 6).

- B. The Cited Publication Does Not Disclose The Second Portion Of The Supporting Member Of At Least One Of The Cutting Members Extends Over At Least Half Of Said Predetermined Distance, As Recited In Claim 1.

Claim 1 recites, “a shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, *wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*” The Examiner asserts that the above recitation of claim 1 is taught in Eibergen in view of Ferraro. (See 10/29/09 Examiner’s Answer p. 5). Appellants respectfully disagree.

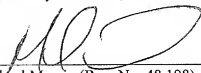
The Examiner refers to Ferraro’s support 79 as a “wedge-shaped supporting or second portion.” (See 4/14/09 Office Action p. 3). Ferraro’s fig. 6 shows a cross-section of support 79. In this figure, the rounded portion closer to the blade’s edge could be considered the “second portion” referred to by the Examiner. It is apparent from this figure that the rounded portion consists of less than half of the supported area. Thus, Ferraro does not disclose “the second portion of the supporting member of at least one of the cutting members extends over *at least half* of said predetermined distance” as recited in claim 1. Nor does Ferraro cure the above mentioned defects in regards to Eibergen. Because claims 3 and 5 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 102(b) and 103(a), and indicate that claims 1-6 are allowable.

Respectfully submitted,

Date: December 23, 2009

By: 
Michael Marcín (Reg. No. 48,198)

Fay Kaplun & Marcín, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276

CLAIMS APPENDIX

1. (Previously Presented) A shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.

2. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion of the supporting member of each cutting member extends over at least half of said predetermined distance.

3. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion is a wedge-shaped portion.

4. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion is a toothed portion.

5. (Previously Presented) A shaving head as claimed in claim 4, wherein the toothed portion comprises wedge-shaped teeth.

6. (Previously Presented) A shaving device having a grip and a shaving head releasably mounted to the grip, wherein the shaving head is a shaving head as claimed in claim 1.